

YOUTH SERVICES POLICY

Title: Uniformed Services Employment and Re-employment Rights Next Annual Review Date: 12/10/2009	Type: A. Administrative Sub Type: 2. Personnel Number: A.2.33
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References: ACA Standards 2-CO-1C-13 (Administration of Correctional Agencies); Civil Service Rules 6.5 (e), 8.19, 9.3, and 11.26; La. R.S. 29:401 - 415; and YS Policy No. A.2.1 "Employee Manual"	
STATUS: Approved	
Approved By: Mary L. Livers, Deputy Secretary	Date of Approval: 12/10/2008

I. AUTHORITY:

Deputy Secretary of Youth Services as contained in La. R.S. 36:405 and Title 38 of the United States Code, Sections 4301-4333, the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA).

II. PURPOSE:

To establish the Deputy Secretary's commitment to the Uniformed Services Employment and Re-employment Rights Act.

III. APPLICABILITY:

Deputy Secretary, Undersecretary, Assistant Secretary, Deputy Assistant Secretaries, Facility Directors, Regional Managers, Human Resources staff, and all employees of Youth Services (YS). Each Unit Head shall ensure that all necessary procedures are in place to comply with the provisions of this policy.

IV. DEFINITIONS:

Service in the Uniformed Services - Performance of duty on a voluntary or involuntary basis in a uniformed service including: active duty; active duty for training; initial active duty for training; inactive duty training; full time national guard duty; absence from work for an examination to determine a person's fitness for any of the above types of duty; funeral honors duty performed by National Guard or Reserve members; or duty performed by intermittent disaster response personnel for the Public Health Service and approved training to prepare for such service.

Uniformed Services - Army, Navy, Marine Corps, Air Force, Coast Guard, Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, Coast Guard Reserve, Army National Guard, Air National Guard, Commissioned Corps of the Public Health Service and any other category of persons designated by the President of the United States of America in time of war or emergency.

Unit Head - Deputy Secretary, Assistant Secretary, Undersecretary, Deputy Assistant Secretaries, Deputy Undersecretary, Facility Directors, and Regional Managers.

V. POLICY:

It is the Deputy Secretary's policy to comply with USERRA (see attached poster) and all other state, federal and local laws as outlined herein.

VI. PROCEDURES:

- A. Each Unit Head shall identify all uniformed services members employed at their unit and maintain a current list of their military branch and status.
- B. In order to receive the full military benefits provided by YS, uniformed services employees must provide either written or oral advance notice of their impending service. Advance notice is not required in those cases where it is precluded by military necessity or otherwise impossible or unreasonable.
- C. Any employee who leaves employment for service in the uniformed services will be advised by appropriate Human Resources personnel of all employment and re-employment rights which include, but are not limited to, the following:
 - 1. Military Leave - All uniformed services employees are granted 15 days paid military leave per calendar year. After that, uniformed services employees will be entitled to an unpaid military leave of absence for the duration of their duty up to six years (pursuant to Civil Service Rule 8.19). Uniformed services employees may elect to use their accumulated annual and/or compensatory leave in lieu of leave without pay.
 - 2. Military Pay Differential - All uniformed services employees who are in leave without pay when activated will be paid the difference between their regular state pay and their military pay, if their military pay rate is the lesser of the two. In order to receive this benefit, uniformed services employees must provide verification of their pay while on military duty.

3. Retirement Benefits - All Uniformed Services employees who have been activated will continue to accrue service credit toward retirement whether in paid or unpaid leave. Uniformed services employees have the option to purchase their retirement earnings for the time during which they were activated and in leave without pay.
4. Seniority and Pay Adjustments - All uniformed services employees will continue to earn state service credit in the classification to which they were designated when activated. Uniformed services employees shall also be granted any pay adjustment they would have received had they been present in that job at the time of the adjustment.
5. Leave Accruals - All uniformed services employees will continue to earn annual and sick leave according to the regular accrual rate. This leave will be credited to them upon their return to work following military duty.
6. Training - All uniformed services employees who have been absent in military leave for an extended period are entitled to any training or retraining that they would have received had they been present.
7. Insurance - All uniformed services employees who are called to active duty may:
 - a. Elect to cancel their current state insurance benefits upon their departure;
 - b. Continue to pay their insurance premiums and retain their coverage while on military leave; and
 - c. Elect to restore their coverage held prior to their departure at the current rate without the pre-existing conditions and limitations.
8. Rights Upon Return - All uniformed services employees who have served in active duty for not more than six years of voluntary service or an indefinite period of involuntary service who have been honorably discharged and have made application for re-employment within 90 days thereof shall be restored to his or a similarly situated position if he is still qualified for that position or to a position for which he is qualified to perform as will provide him like seniority, status, and pay or the nearest approximation of his former circumstances.
9. Protection from Termination - A re-employed employee who served in active duty 31 or more days may not be discharged without cause as follows:

- a. For one year after the date of re-employment if the person's period of military service was for more than six months (181 days or more).
- b. For six months after the date of re-employment if the person's period of military service was for 31 to 180 days.

VII. REPORTING BACK TO WORK:

- A. Service of 1 to 30 days - The employee must report to his employer by the beginning of the first regularly scheduled work period that begins on the next calendar day following completion of service, after allowance for safe travel home from the military duty location and an eight-hour rest period. For example, an employer cannot require a service member who returns home at 10:00 p.m. to report to work at 12:30 a.m. that night. But, the employer can require the employee to report for the 6:00 a.m. shift the next morning. If, due to no fault of the employee, timely reporting back to work would be impossible or unreasonable, the employee must report back to work as soon as possible.
- B. Service of 31 to 180 days - Notification of returning to work must be submitted no later than 14 days after completion of a person's service. If submission of a timely application is impossible or unreasonable through no fault of the person, the application must be submitted as soon as possible. If the 14th day falls on a day when the offices are not open, or there is otherwise no one available to accept the application, the time extends to the next business day.
- C. Service of 181 or more days - Notification of returning to work must be submitted no later than 90 days after completion of a person's military service. If the 90th day falls on a day when the offices are not open, or there is otherwise no one available to accept the application, the time extends to the next business day.
- D. Fitness Exam - The time limit for reporting back to work for a person who is absent from work in order to take a fitness-for-service examination is the same as described in Section 7.A. above for persons who are absent for 1 to 30 days. This period will apply regardless of the length of the person's absence.
- E. Disability incurred or aggravated - The reporting or application deadlines are extended for up to two years for persons who are hospitalized or convalescing because of a disability incurred or aggravated during the period of military service.

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The two-year period will be extended by the minimum time required to accommodate a circumstance beyond an individual's control that would make reporting within the two year period impossible or unreasonable.

VIII. PROTECTION FROM DISCRIMINATION AND RETALIATION:

Employment discrimination because of past, current, or future military obligations is prohibited. The ban is broad, extending to most areas of employment, including: hiring; promotions; re-employment; termination; and benefits.

Previous Regulation/Policy Number: A.2.33

Previous Effective Date: 12/05/05

Attachments/References:



USERRA_Poster July 2008.pdf